



PRELIMINARY DRAFT

No. 3099

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 13-11-2-0.2; IC 13-21-3; IC 13-25.

Synopsis: Noncode statutes. Codifies certain noncode provisions relating to the environment. Repeals the corresponding noncode provisions. Repeals without codification environmental noncode statutes relating to the following: (1) Environmental administrative proceedings pending in 1987. (2) Application of certain environmental statutes to violations occurring before May 8, 1987. (3) Application of a 1990 act to certain environmental permits. (4) Application of a 1993 act to certain environmental permits. (5) Application of a 1993 act requiring IDEM to provide certain information to the EPA. (6) 1996 statutes requiring adoption of certain rules and streamlining of approval process of certain water facilities. (7) A 2000 statute requiring IDEM to prepare certain reports. (8) A 2002 statute requiring IDEM to apply for a permit for a certain county to cover a point source discharge. (9) A 2002 statute requiring the EQSC to take certain steps regarding protection of wetlands. (10) A statute requiring the creation of an interim study committee concerning certain environmental statutes. (11) A statute requiring the water resources study committee to study certain topics during the 2007 interim.

Effective: July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-0.2 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 0.2. (a) The amendments made to IC 13-7-8.7-8(a)**
4 **and IC 13-7-8.7-8(b) (before their repeal, now codified at sections**
5 **48 and 81, respectively, of this chapter) by P.L.25-1991 apply to an**
6 **action for which a final determination of liability is made after**
7 **June 30, 1991.**

8 **(b) The amendments made to IC 13-7-20-24 (before its repeal,**
9 **now partly codified at sections 48 and 81 of this chapter) by**
10 **P.L.25-1991 apply to an action for which a final determination of**
11 **liability is made after June 30, 1991.**

12 SECTION 2. IC 13-21-3-14 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 14. (a) This section**
14 **does not apply to a contract executed before April 1, 1998.**

15 ~~(a)~~ **(b)** Except as provided in subsection ~~(c)~~ **(d)** and section 14.5 of
16 this chapter, the powers of a district do not include the following:

17 (1) The power of eminent domain.

18 (2) Except as provided in subsection ~~(b)~~, **(c)**, the power to
19 exclusively control the collection or disposal of any solid waste or
20 recyclables within the district by means that include the
21 following:

22 (A) Franchising.

23 (B) Establishing a territory or territories within the district in
24 which a person may provide service.

25 (3) The power to establish the type of service that a person must
26 provide for the collection or disposal of solid waste or recyclables
27 within the district.

28 (4) The power to establish fees that a person must charge for the
29 collection or disposal of solid waste or recyclables within the
30 district.

31 (5) The power to issue permits for an activity that is already



permitted by a state agency, except as expressly granted by statute.

~~(b)~~ (c) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

~~(c)~~ (d) Subsection ~~(a)~~ (b) does not apply to activities conducted as part of a household hazardous waste collection and disposal project.

SECTION 3. IC 13-21-3-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14.5. (a) This section does not apply to the following:

(1) The continuation of waste management services that a solid waste district provides with its facilities or work force before March 15, 1996.

(2) Waste management services provided to the district under an agreement entered into by the district before March 15, 1996, with another person until the agreement terminates by its terms or is terminated for cause.

(3) The development, operation, and contracting for the development or operation of a publicly owned solid waste landfill in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000). The operation of the landfill must have begun before July 1, 2001.

(4) A contract entered into between the board and a third party before May 1, 1997, for the development or operation of a solid waste landfill in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The third party is limited to those parties that submitted proposals to the board under a formal request for proposals that were selected by the board, before December 1, 1995, as finalists in the contract negotiations.

(5) A contract between a board and a third party to operate a facility that is owned by the district and for which construction was substantially complete before March 1, 1996.

(6) Activities conducted as part of household hazardous waste (as defined in IC 13-11-2-104) collection and disposal projects.

(7) A contract executed before April 1, 1998.

(b) Except as provided in subsection (c), a district may not:

(1) undertake to provide waste management services by means of its own work force; or

(2) contract with any person to provide waste management services.

(c) A district may perform the activities described in subsection (b):



(1) if:

(A) the board is able to adopt a resolution under subsection (d); and

(B) a private sector entity is not willing or able to provide waste management services at a reasonable cost to the district; or

(2) if the district is requested to do so by a unit of government that performs the activities with the unit's work force.

(d) The board may adopt a resolution determining that the district must either provide waste management services by means of its own work force or contract with a person to provide waste management services, only if the board finds that:

(1) the waste management service is not currently available in the district at a reasonable cost; and

(2) providing the waste management service by means of its own work force or by contract will benefit the public health, welfare, and safety of residents of the district.

The board's determination must be supported with findings of fact.

(e) A district shall provide notice by publication under IC 5-3-1 and at the time of publication serve by first class mail to any person that delivers to the district an annual written request for notices before January 1 of any meeting to consider adoption of a resolution making a preliminary determination that it is necessary for the district to undertake to provide waste management services by means of its own work force or contract with any person to provide waste management services.

(f) Whenever a district evaluates the reasonableness of cost under this section, it shall:

(1) compare the cost of the same level of service provided in the district or in similar demographic areas within Indiana; and

(2) if the district wishes to provide waste management services with its own facilities or work force, the district must disclose the entire cost of providing the service by the district, including the following:

(A) Subsidies arising from taxes, fees, grants, or intergovernmental transfers.

(B) In-kind contributions of real estate, interests in real estate, equipment, personnel, or other assets.

(C) Discounts. ~~and~~

(D) Tax exemptions.

(g) A resolution adopted under subsection (d) may authorize a district to perform more than one (1) solid waste recycling, collection, or disposal event in the manner described in subsection (b) if:

(1) the duration of each event authorized by the resolution is not more than one (1) day; and

(2) all events authorized by the resolution will take place in one



1 (1) calendar year.

2 SECTION 4. IC 13-23-13-0.2 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**
5 **IC 13-7-20-24 (before its repeal, now partly codified at section 5 of**
6 **this chapter) by P.L.25-1991 apply to an action for which a final**
7 **determination of liability is made after June 30, 1991.**

8 SECTION 5. IC 13-25-3-0.1 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2011]: **Sec. 0.1. This chapter applies to transfers of property that**
11 **take effect, or that are scheduled to become final, after December**
12 **31, 1989.**

13 SECTION 6. IC 13-25-4-0.2 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2011]: **Sec. 0.2. The amendments made to IC 13-7-8.7-8(c)**
16 **through IC 13-7-8.7-8(f) (before that section's repeal, now codified**
17 **at section 8 of this chapter) by P.L.25-1991 apply to an action for**
18 **which a final determination of liability is made after June 30, 1991.**

19 SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE
20 JULY 1, 2011]: P.L.160-1987, SECTION 23; P.L.171-1987, SECTION
21 6; P.L.166-1989, SECTION 2; P.L.107-1990, SECTION 3;
22 P.L.25-1991, SECTION 13; P.L.148-1993, SECTION 10;
23 P.L.148-1993, SECTION 11; P.L.163-1993, SECTION 2;
24 P.L.123-1996, SECTION 21; P.L.123-1996, SECTION 22;
25 P.L.110-1998, SECTION 4; P.L.112-2000, SECTION 6; P.L.172-2002,
26 SECTION 8; P.L.183-2002, SECTION 2; P.L.221-2007, SECTION 49;
27 P.L.231-2007, SECTION 5.

